

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

KRISTINA MARTINEZ, and **TODD LOPEZ**,
as Co-Personal Representatives of the **ESTATE OF**
DALE RAND ERICKSON, deceased,
LUCILLE HIGGINS, **BRANDON ERICKSON**,
MATTHEW ERICKSON, **JONATHAN ERICKSON**,
and **MARLENE KANTOWSKI**, as parent and next
friend of **BRIANNA ERICKSON**,

Plaintiffs,

v.

Case No.

CORRHEALTH, PROFESSIONAL LIMITED
LIABILITY COMPANY d/b/a CORRHEALTH, LLC,
a foreign limited liability company,
BRUCE BOYNTON, MD,
BARRY SCHOOLEY-STANFORD, MSN, FNP-C,
OAKLEY BLASDEL, RN,
KIMBERLY RICH-GAINEY, RN, and
MYRA MARTINEZ, LPN, in their individual capacities
as employees of CorrHealth, Professional Limited
Liability Company d/b/a CorrHealth, LLC,
BOARD OF COUNTY COMMISSIONERS
OF SANDOVAL COUNTY, and **GILBERT**
ARMENDARIZ, in his individual and official
capacity as Director of the Sandoval County
Detention Center,

Defendants.

NOTICE OF REMOVAL AND DEMAND FOR JURY TRIAL

Pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446(a) and (b), Defendants CorrHealth Professional Limited Liability Company, (hereinafter “CorrHealth”), Bruce Boynton, MD, Barry Schooley-Stanford, MSN, FNP-C, Oakley Blasdel, RN, Kimberly Rich-Gainey, RN, and Myra Martinez, LPN (collectively, the “CorrHealth Defendants”) by and through their counsel of record, THE SHARUZI LAW GROUP, LTD. (Jacqueline Sharuzi), hereby give Notice of Removal to

this Court of the civil action filed in the Thirteenth Judicial District Court for the State of New Mexico, County of Sandoval, Cause No. D-1329-CV-2021-00445, by Kristina Martinez, in her representative capacity as duly appointed Personal Representative of the Estate of Dale Rand Erickson; Lucille Higgins, as Mr. Erickson's widow; and Brandon Erickson, Matthew Erickson, Jonathan Erickson, and Brianna Erickson, as Mr. Erickson's adult children, and as grounds therefore state:

1. On March 19, 2021, Plaintiffs filed their "Complaint for Wrongful Death and Loss of Consortium," therein asserting six claims against Defendants based on New Mexico state law. A copy of the Complaint is attached hereto as Exhibit A.

2. On April 7, 2022, Plaintiffs filed their "First Amended Complaint for Civil Rights Violations, Wrongful Death, and Loss of Consortium." A copy of the First Amended Complaint is attached hereto as Exhibit B.

3. The CorrHealth Defendants were served the First Amended Complaint on April 7, 2022.¹ 24 U.S.C. § 1446(b); *see also Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

4. This Notice of Removal is timely, as it was filed within thirty (30) days of service of the First Amended Complaint on April 7, 2022.

5. Defendants Board of County Commissioners of Sandoval County and Gilbert Armendariz (the "Sandoval County Defendants") were contacted by undersigned counsel, and consent to the removal of this action was expressly furnished by counsel for the Sandoval County Defendants.

¹ The undersigned counsel represents that the Individual Defendants have authorized counsel to accept service on their behalf, and further that they have "received" the Amended Complaint "by service or otherwise" for purposes of this Notice. 24 U.S.C. § 1446(b)(1).

6. Pursuant to 28 U.S.C. § 1446(d), copies of this Notice of Removal will be promptly given to all adverse parties and an endorsed copy of this Notice of Removal will be filed with the Clerk of the Thirteenth Judicial District, County of Sandoval, State of New Mexico, in Cause No. D-1329-CV-2021-00445.

7. The claims stated against the CorrHealth Defendants that are subject to the original jurisdiction of this Court pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) and (4) are as follows:

- a. Count VII of Plaintiff's First Amended Complaint, specifically Paragraphs 207 through 227, expressly allege violations of the Eighth and Fourteenth Amendments to the U.S. Constitution. *See* Ex. B, pp. 62–66.

8. A federal question thus appears on the face of Plaintiff's First Amended Complaint. The Court also has supplemental/pendant jurisdiction of the remaining state law claims pursuant to 28 U.S.C. § 1367, as they form part of the same case or controversy under Article III of the U.S. Constitution. *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 349 (1988).

9. Pursuant to 28 U.S.C. § 1446(a) and Rule 81.1(a) of the Local Rules of Civil Procedure for the U.S. District Court for the District of New Mexico, the CorrHealth Defendants will file a Notice of Filing of State Court Record and certified copies of the pleadings filed in the Thirteenth Judicial District for the State of New Mexico, County of Sandoval, Cause No. D-1329-CV-2021-00445, within twenty-eight (28) days of filing this Notice of Removal. A Civil Cover Sheet is attached hereto as Exhibit C.

10. Contemporaneous with the filing of this Notice of Removal, the CorrHealth Defendants are filing a Notice of Filing of Notice of Removal with the Clerk of the Thirteenth Judicial District for the State of New Mexico, County of Sandoval, pursuant to 28 U.S.C. §

1446(d). The CorrHealth Defendants have given prompt notice of this Notice of Removal to all adverse parties.

11. In connection with this Notice of Removal, the CorrHealth Defendants also demand a jury trial pursuant to Federal Rules of Civil Procedure 38 and 81(c)(3).

Respectfully submitted this 18th day of April 2022,

SHARUZI LAW GROUP, LTD.

By: /s/ Jacqueline B. Sharuzi

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Rich-Gainey, RN, and Myra Martinez,
LPN.***

CERIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of April, 2022 was filed electronically through the CM/EFE electronic filing system, which caused the following attorneys to be electronically served as follows:

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By: s/ Jacqueline B. Sharuzi
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